

states tools, or rules, that if followed would maintain the healthy tension necessary to protect self-governance by the people and prevent any level of government from overstepping its bounds.

Among those rules or tools given to states were these:

The 10th Amendment, which reserved any power not specifically delegated to the national government to the states and the people. Clearly, the founders intended the national government to stay within the bounds of duties enumerated in the Constitution.

The election of U.S. senators by state legislatures. Having senators directly accountable to state legislatures would keep the national government in check. If the national government centralized authority or passed bills disliked by the states, legislatures could call their senators in for an accounting. It would not be likely for the Congress to usurp state authority if senators owed their political lives to state legislatures. The power was carefully balanced and the tension was healthy.

The ability of state legislatures to initiate constitutional amendments. This also would keep the national government in check because if it got out of line the states could take action to rein it in. It is clear that the founders intended state leaders to have the ability to initiate constitutional amendments.

The sense that state leaders would rise in indignation and band together to oppose congressional centralization of authority and usurpation of power. In *Federalist 46*, James Madison predicted that "ambitious encroachments of the federal government on the authority of the state governments . . . would be signals of general alarm. Every government would espouse the common cause . . . plans of resistance would be concerted." States would react as though in danger from a "foreign yoke," he suggested.

Those were some of the tools the founders put in place to safeguard the roles of both levels of government and to prevent either from becoming too dominant.

It would likely be a matter of some bitterness and disappointment to the founders if they were to return today to see what happened to the finely-crafted balance, the healthy tension that they built into the Constitution. As they see a national government that dictates to states on nearly every issue and that is involved in every aspect of citizens' lives, they might wonder what happened to those tools and rules they established to maintain balance.

The sad fact is that each one of those tools has either been eroded away, given away, or rendered impossible to use. Thus, today there does not exist any restraint to prevent the national government from taking advantage of the states. To their credit, leaders of the Republican Congress have gone out of their way to involve governors in important decisions. But there is nothing permanent in that relationship. With a change in leadership, state leaders could easily be relegated to their past status as lobbyists and special interest groups. Over the past several decades, they have had to approach Washington hat in hand, hoping and wishing that Congress will listen to them. There has been no balance of power, no full partnership in a federal-state system. States must accept whatever the Congress gives them. States have no tools, no rules, ensuring them an equal voice.

Let's look at what happened to those tools and rules the founders so carefully provided to ensure balance.

The 10th Amendment has been eroded to the point that in the minds of most Washington insiders it barely exists. The preponderance of congressional action and federal

court decisions over the past 60 years have rendered the 10th Amendment nearly meaningless. It would barely be recognizable by the founders. States did not defend or guard it properly and it no longer protects states.

States gave away the power to have their U.S. senators directly accountable to state legislatures. There was good reason for this, as graft and corruption sometimes occurred in the appointment of senators by legislatures. States ratified the 17th Amendment making senators popularly elected, and citizens should not be asked to give up the right to elect their senators. But while it does not make sense to try to restore that tool, it should be replaced with something else more workable.

The ability of states to initiate constitutional amendments has never been used and is essentially unworkable. Clearly, the founders intended for state leaders to be able to initiate amendments as a check on federal power, but it has never happened and likely never will. The Congress sits as a constitutional convention every day it is in session, and can propose constitutional amendments any time it desires. But many citizens have an enormous fear of state leaders coming together to do the same thing, even though any amendment proposed would require ratification by three-fourths of states. Thus, this tool provided by the founders has become impractical and does not protect states from federal encroachment.

The fourth tool was the founders' belief that state leaders would jealously guard their role in the system and rise up in opposition to federal intrusions. That has not happened, especially as state governments have become dependent on federal dollars and have been willing to give up freedom for money. States have proven themselves to be politically anemic. Instead of mobilizing against federal encroachments, state leaders have spent their time lobbying for money and hoping for flexibility.

Thus, it is no wonder that states have little true clout as budget cuts are made and as the pie is being divided in Washington D.C. There is no healthy tension. States have no tools or rules to protect themselves. What is passing for federalism in Washington today is not a true sharing of power, but a subcontracting of federal programs to states. The federal government is merely delegating, not devolving true authority.

Because the tools protecting states have been rendered ineffective, it is important that Congress replace them with new versions that accomplish what the Founders intended. That is why I am so supportive of your Tenth Amendment Enforcement Act. It would help prevent all three branches of the federal government from overstepping their constitutional authority and would help restore the careful balance put in place by the Founders.

I thank you for your efforts to return power to the states and to the people. Please count me among the supporters of this legislation.

Sincerely,

MICHAEL O. LEAVITT,
Governor, State of Utah.

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE GOVERNOR,
March 12, 1996.

Hon. TED STEVENS,
Member, U.S. Senate, Chairman, Committee on
Governmental Affairs, Washington, DC.

DEAR TED: Thank you for your letter regarding the Tenth Amendment Enforcement Act of 1996.

Two centuries ago, the challenge to individual liberty came from an arrogant, overbearing monarchy across the sea. Today, that challenge comes all too often from our

own federal government, which has ignored virtually every constitutional limit fashioned by the framers to confine its reach and thus to guard the freedoms of the people.

In our day, the threat to self-determination posed by the centralization of power in the nation's capital has been dramatically demonstrated. Under my administration, Virginia has challenged the constitutionality of federal mandates in court, and I have testified before the Congress in support of restoring powers to the States and the people.

The legislation you are proposing will help the States and the people regain prerogatives usurped by an overbearing federal government. I wholeheartedly support your efforts and would be pleased to work with you to highlight the impact of federal intrusion in Virginia.

With kind personal regards, I remain,

Sincerely,

GEORGE ALLEN.

STATE OF MICHIGAN,
OFFICE OF THE GOVERNOR,
Lansing, MI, March 19, 1996.

Hon. TED STEVENS,
U.S. Senate,
Washington, DC.

DEAR SENATOR STEVENS: I am writing in support of the Tenth Amendment Enforcement Act of 1996, which I understand you intend to introduce this week. Congressional action of this type is necessary to restore vigor to this often-neglected provision of our constitution and I wholeheartedly support your effort to do so.

Congress has over the years run roughshod over state concerns and prerogatives and has generally lost sight of the fact that ours is a federal system of government. In that system, the federal government has only those powers specifically delegated to it and enumerated in the constitution, with the balance remaining with the states or the people. Too often in our recent history the federal government has ignored the meaning of the Tenth Amendment in a mad rush to impose a one-size-fits-all approach in areas of traditional state and local concern. This approach stifles innovation and takes the policy debate further from the people by centralizing decision-making in Washington, D.C.

A recent example of federal intrusion into a matter best left to the states is the Motor Voter law, which imposes an unfunded mandate on the states to offer voter registration services at state social services offices. Michigan must comply with this requirement even though nearly 90 percent of its eligible population is already registered to vote. In fact, Michigan demonstrated the states' superior ability to craft innovative solutions in areas such as this when it initiated the motor voter concept some 21 years ago by offering voter registration services at Secretary of State branch offices. The imposition of a federal "solution" in this area ignores the fact that states are better positioned to address the needs of their citizens and can do so without prodding from the federal government.

The Tenth Amendment Enforcement Act of 1996 will help restore the balance to our federal system that the framers of the constitution intended. It will do so by requiring congress to identify specific constitutional authority for the exercise of federal power. This will have the salutary effect of reminding the congress that it can legislate only pursuant to an enumerated power in the constitution. Requiring congress to state its intention to preempt existing state or federal law or interfere with state power should assist in limiting the intrusion the federal Motor Voter law exemplifies.

I recently offered amendments to the National Governors' Association's policy on